

Mail Stop Interference  
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Paper No.: 24  
Filed: February 13, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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DAVID G. HEATH,  
ARTHUR M. FRIEDLANDER, GEORGE W. ANDERSON,  
and SUSAN L. WELKOS  
Junior Party

(Application 08/699,716),

v.

RICHARD WILLIAM TITBALL,  
ETHEL D. WILLIAMSON, SOPHIE E.C. LEARY,  
PETRA C.F. OYSTON, and ALICE M. BENNETT  
Senior Party

(Patent 5,985,285).

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Patent Interference No. 105,564  
(Technology Center 1600)

Before: FRED E. McKELVEY, *Senior Administrative Patent Judge*, and  
RICHARD E. SCHAFER and SALLY GARDNER LANE, *Administrative Patent  
Judges*.

LANE, *Administrative Patent Judge*.

**Judgment – Order to Show Cause – Bd. R. 202(d)**

1           Heath is under an Order to Show Cause (Bd.R. 202(d) (2)) (Order, Paper  
2   4). As a response to the Order the parties sought, and were authorized, to file a  
3   joint motion seeking a judgment of no interference-in-fact. (See Paper 20 at 1  
4   and Paper 21 ("Joint Motion"). In addition, Heath filed a "Proposed Amendment  
5   Contingent Upon Grant of Parties Joint Motion For No Interference-In-Fact."  
6   (Exh. 2007).

7           The Joint Motion was denied and Heath's proposed amendment was not  
8   entered. (Paper 23). Heath has not responded to the Order otherwise.

9           Since Heath has not shown sufficient reason why judgment should not be  
10   entered against it, judgment adverse to Heath is entered below.

11          Upon consideration of the record and for reasons given, it is

12                 ORDERED that judgment on priority as to Count 1, the sole count  
13   of the interference, is entered against junior party Heath;

14                 FURTHER ORDERED that claims 1, 2, 7, 9, 10, and 12-17 of  
15   Heath application 08/699,716, which claims correspond to Count 1 (Paper 1 at  
16   4), be FINALLY REFUSED, 35 U.S.C. §135(a);

17                 FURTHER ORDERED that, if there is a settlement agreement, the  
18   parties are directed to 35 U.S.C. §135(c) and Bd.R. 205; and

19                 FURTHER ORDERED that a copy of this judgment and a copy of  
20   the decision on the joint motion (Paper 23) shall be entered into the  
21   administrative record of Heath application 08/699,716 and Titball patent  
22   5,985,285.

1	<u>/Fred E. McKelvey/</u>	)
2	FRED E. McKELVEY	)
3	Senior Administrative Patent Judge	)
4		)
5	<u>Richard E. Schafer/</u>	)
6	RICHARD E. SCHAFER	)
7	Administrative Patent Judge	)
8		)
9	<u>/Sally Gardner Lane /</u>	)
10	SALLY GARDNER LANE	)
11	Administrative Patent Judge	)

cc (via electronic filing):

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**Dyar, Leneetha**

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**From:** on behalf of Interference Trial Section

**To:** ssundby@sgrlaw.com; khochgesang@sgrlw.com; lcm@nixonvan.com; mjlw@nixonvan.com

**Subject:** Interference 105564 (SGL), Paper No. 23-Decision-Interlocutor Motion-Bd.R. 125(b), Paper No. 24-Judgment-Order to Show Cause-Bd.R. 202(d)

**Attachments:** 105564. 023.pdf; 105564.024.pdf

2/13/2008